



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[Docket No. FWS-R6-ES-2014-0048; FF06E220000-178-FXES11140600000]**

**Endangered and Threatened Wildlife and Plants; Incidental Take Permit**

**Application; Draft Habitat Conservation Plan for the R-Project Transmission Line and Draft Environmental Impact Statement**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Nebraska Public Power District (NPPD) has applied for an incidental take permit under the Endangered Species Act (ESA) for the R-Project transmission line in north-central Nebraska. If issued, the permit would authorize the take of the federally endangered American burying beetle incidental to the construction, operation, and maintenance of the transmission line. We, the U.S. Fish and Wildlife Service (Service), announce the availability of the following documents related to the NPPD incidental take permit application for review and comment by the public and Federal, Tribal, State, and local governments: Draft Habitat Conservation Plan for the R-Project Transmission Line in Nebraska (HCP); Draft Environment Impact Statement of the R-Project HCP (DEIS); Draft Migratory Bird Conservation Plan (MBCP); and Draft Restoration Management Plan.

**DATES:** *Comment submission:* Written comments must be submitted by [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

*Public meetings:* We are holding three public meetings to share information and allow the public to provide oral and written comments on the DEIS and draft HCP. The meetings will be held from 7 p.m. to 9 p.m. on:

- Monday, June 12, 2017—Sutherland, NE
- Tuesday, June 13, 2017—Thedford, NE
- Wednesday, June 14, 2017—Burwell, NE

Persons needing reasonable accommodations to attend and participate in the public meetings should contact Eliza Hines (see **FOR FURTHER INFORMATION CONTACT**). To allow sufficient time to process requests, please call no later than one week before the meeting.

**ADDRESSES:** *Document availability:* The draft HCP, DEIS, draft MBCP and draft Restoration Management Plan are available via the Internet at the Federal eRulemaking Portal ([www.regulations.gov](http://www.regulations.gov)) in Docket No. FWS–R6–ES–2014–0048. Information regarding the DEIS and accompanying documents is available in alternative formats upon request (see **FOR FURTHER INFORMATION CONTACT**). Documents will also be available for public inspection by appointment (call 308–382–6468 extension 204) during normal business hours at the U.S. Fish and Wildlife Service, Nebraska Field Office, 9325 South Alda Road, Wood River, NE 68883.

*Submitting comments:* To send written comments, please use one of the following methods, and note that your information requests or comments are in reference to the draft HCP. Please specify which documents your comment addresses: the DEIS, draft HCP, draft MBCP, or draft Restoration Management Plan.

- *Internet:* Submit comments at [http:// www.regulations.gov](http://www.regulations.gov) to Docket Number FWS–R6–ES–2014–0048.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–R6–ES–2014–0048; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

*Public meetings:* The public meetings discussed above in **DATES** will be held at the following locations in Nebraska:

- *Burwell:* American Legion Hall, 657 G Street, Burwell, NE 68823
- *Sutherland:* Village Municipal Offices, 1200 First Street, Sutherland, NE 69165
- *Thedford:* Thomas County Fairgrounds, 8386 Hwy 83, Thedford, NE 69166

**FOR FURTHER INFORMATION CONTACT:** Eliza Hines, 308–382–6468 extension 204 (phone) or [eliza\\_hines@fws.gov](mailto:eliza_hines@fws.gov) (e-mail). If you use a telecommunications device for the deaf, hard-of-hearing, or speech disabled, please call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** We received an application from NPPD for an incidental take permit to authorize the incidental take of the federally endangered American burying beetle resulting from the construction, operation, and maintenance of

the proposed R-Project transmission line and substations. The 345-kilovolt R-Project transmission line would be approximately 225 miles long in north-central Nebraska. As part of its application, NPPD prepared a draft HCP that describes actions to avoid, minimize, and mitigate impacts of incidental take of the American burying beetle. NPPD also prepared a Draft Restoration Management Plan to outline restoration plans for beetle habitat as well as other habitats impacted by the R-Project. Additionally, NPPD developed a MBCP to address impacts to migratory birds and bald and golden eagles in a good faith effort to comply with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

In the DEIS, we analyze the potential impacts to the natural and human environment from implementing the proposed HCP and issuing the permit and from implementing the two alternatives to the proposed action. The DEIS also identifies alternatives that we considered but eliminated from further analysis.

## **Background**

Section 9 of the ESA prohibits take of fish and wildlife species listed as endangered (16 U.S.C. 1538). Under section 3 of the ESA, the term “take” means to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct” (16 U.S.C. 1532(19)). The term “harm” is defined in title 50 of the Code of Federal Regulations as “an act which actually kills or injures wildlife. Such acts may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering” (50 CFR 17.3). The term “harass” is defined in the

regulations as “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering” (50 CFR 17.3).

Under section 10(a) of the ESA, the Service may issue permits to authorize incidental take of listed fish and wildlife species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Section 10(a)(1)(B) of the ESA contains provisions for issuing incidental take permits to non-Federal entities for the incidental take of endangered and threatened species, provided the following criteria are met:

- The taking will be incidental.
- The applicant will minimize and mitigate, to the maximum extent practicable, the impact of such taking.
- The applicant will develop an HCP and ensure that adequate funding for the plan will be provided.
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.
- The applicant will carry out any other measures that the Secretary of the Interior may require as being necessary or appropriate for the purposes of the HCP.

Regulations governing permits for endangered species are at 50 CFR 17.22.

The National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine whether the actions may significantly affect the human environment. Under

NEPA and its implementing regulations (40 CFR 1500 *et seq.*), Federal agencies must also compare effects of a reasonable range of alternatives to the proposed action. In these analyses, the Federal agency will identify potentially significant direct, indirect, and cumulative effects, as well as possible mitigation for any significant effects, on biological resources, land use, air quality, water resources, socioeconomics, environmental justice, cultural resources, and other environmental resources that could occur with the implementation of the proposed action and alternatives. In accordance with NEPA, we prepared a DEIS to analyze the impacts to the natural and human environment that may occur if the Service were to issue the permit and NPPD were to implement the proposed R-Project HCP. We announced scoping for the DEIS in the **Federal Register** of October 30, 2014 (79 FR 64619).

### **Proposed Action**

We propose to issue a 50-year permit for incidental take of the American burying beetle if NPPD's HCP meets all the section 10(a)(1)(B) permit issuance criteria. The permit would authorize take of the American burying beetle incidental to the proposed construction, operation, and maintenance, including emergency repairs, of the R-Project. NPPD would avoid the incidental take of other federally listed species by implementing avoidance measures presented in the draft HCP.

The permit area for the HCP is determined by the geographical area within which incidental take is expected to occur. The proposed permit area includes 1 mile on each side of the R-Project centerline from Stapleton, Nebraska, north to the Thedford Substation. The permit area also includes 4 miles on each side of the centerline from the Thedford Substation east to a new Holt County Substation. The varying permit area width

incorporates all potential incidental take that may occur outside the transmission line right-of-way resulting from construction access, temporary work areas, staging sites, fly yards, or other ground disturbance from construction and maintenance.

The proposed R-Project transmission line would be constructed with tubular steel monopoles and steel lattice towers. Tubular steel monopoles require large equipment for installation and would be used where adequate access and established roads exist. Steel lattice towers would be used in the Sandhills where access routes are limited or do not exist. Lattice towers can be constructed with less overall effect on the surrounding area because smaller equipment and helicopter construction can be used.

The draft HCP describes a number of measures that NPPD would implement to avoid and minimize the incidental take of the beetle during construction, operations, and maintenance of the R-Project. Measures associated with restoration of beetle habitat, as well as other habitats, are outlined in the Restoration Management Plan. The HCP also commits NPPD to provide mitigation lands to conserve beetle habitat to fully offset temporary and permanent impacts of the remaining take. With these measures, construction of the R-Project would permanently destroy 33 acres of American burying beetle habitat and temporarily disturb an additional 1,250 acres of American burying beetle habitat over the term of the permit. NPPD would work with the Service to secure at least 500 acres of occupied American burying beetle habitat in perpetuity.

### **Alternatives Analyzed in the DEIS**

In the DEIS, we also evaluate the effects on the natural and human environment from two alternatives to the proposed action: (1) no action (i.e., no permit issuance), and (2) construction of the R-Project using only steel tubular monopole structures.

Construction of tubular steel monopoles would require access roads to support heavy equipment. NPPD would construct temporary access routes where adequate ones do not exist. Associated levels of ground disturbance would require the permit to authorize higher levels of incidental take of the American burying beetle, and an associated HCP would need to expand conservation measures to minimize and fully offset the impacts of the incidental take.

The DEIS considers the direct, indirect, and cumulative effects of the two action alternatives, including measures intended to avoid, minimize, and mitigate such impacts. The DEIS also identifies alternative routing options that the Service considered but eliminated from detailed analysis.

The Service invites comments and suggestions from interested parties on the content of the DEIS. In particular, information and comments regarding the following topics are requested:

1. The direct, indirect, or cumulative effects that implementation of either action alternative could have on the natural and human environment.
2. Whether or not the impact on various aspects of the natural and human environment have been adequately analyzed.
3. Any other information pertinent to evaluating the effects of the proposed action on the natural and human environment.

### **Role of the Environmental Protection Agency in the EIS Process**

The U.S. Environmental Protection Agency (EPA) is charged under section 309 of the Clean Air Act to review all Federal agencies' environmental impact statements



(EISs) and to comment on the adequacy and acceptability of the environmental impacts of proposed actions in the EISs.

EPA also administers the database for EISs prepared by Federal agencies and provides notice of their availability in the **Federal Register**. The EIS database provides information about EISs prepared by Federal agencies, as well as EPA's comments concerning the EISs. All EISs are filed with EPA, which publishes a notice of availability each Friday in the **Federal Register**.

For more information, see <http://www.epa.gov/compliance/nepa/eisdata.html>.

You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

### **Public Comments**

Written comments received become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public disclosure in their entirety.

**Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations for incidental take permits (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

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